

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:20-CV-00532-M

DARRYL COOK,

Plaintiff,

v.

REWARDS NETWORK,

Defendant.

ORDER

This matter comes before the court on the pro se Plaintiff's "Motion to File Dismissal" [DE 36]. Plaintiff states in the document that he "wishes to file a volunteer dismissal with prejudice against the Defendant."¹ *Id.* Rule 41(a)(1) of the Federal Rules of Civil Procedure governs voluntary dismissals by plaintiffs and states that a "plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment;" Fed. R. Civ. P. 41(a)(1)(A)(i). Here, in response to the Complaint, the Defendant filed a motion to compel arbitration and dismiss or stay the action (see DE 14); the record indicates Defendant has filed no answer nor motion for summary judgment in this case. Therefore, pursuant to Rule 41(a)(1)(A)(i), the court construes Plaintiff's filing as a notice of dismissal with prejudice and directs the Clerk of the Court to close this case.

SO ORDERED this 7th day of December, 2021.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE

¹ The parties notified the court on November 30, 2021 that they "executed a Settlement Agreement" pertaining to both the arbitration and this action. Status Report at ¶ 5, DE 35.